

# STOP ERRORS IN CREDIT USE AND REPORTING ACT OF 2014

## Section-by-Section

**Purpose:** To enhance the accuracy of credit reporting, provide greater rights to consumers who dispute errors in their credit reports, and strengthen regulatory oversight of credit reporting agencies (CRAs). The bill amends the Fair Credit Reporting Act (FCRA) (15 U.S.C. 1681 et seq.).

### **Section 1: Title.**

### **Section 2: Legal Recourse for Consumers**

#### *Section 2(a): Injunctive relief*

This section allows consumers to seek injunctive relief when they sue for a violation of the FCRA. The FCRA currently limits relief to actual damages and, in cases of willful noncompliance, punitive damages. Injunctive relief is useful for consumers because they can ask the court to order the entity that violated the FCRA to stop engaging in the practice that violates the law. Damages alone may not be enough to induce an entity to change its practices.

#### *Section 2(b): Enforcement by the Federal Trade Commission*

This section lowers the standard that the Federal Trade Commission (FTC) must meet to impose a civil penalty for a violation of the FCRA. This section allows the FTC to impose a civil penalty for “negligent, willful, or knowing” violations. The FCRA currently requires the FTC to prove a “knowing” violation. This is a higher burden than that imposed on individuals and state attorneys general, both of which can bring actions for negligent violations. This provision would enable the FTC to use enforcement actions more effectively to improve the accuracy of credit reporting.

### **Section 3: Increased Requirements for Consumer Reporting Agencies and Furnishers of Information**

#### *Section 3(a): Including consumers’ documentation regarding the dispute*

This section clarifies the information that a CRA must provide to a data furnisher after receiving notification of dispute from a consumer. The FCRA currently requires CRAs to provide all relevant information regarding a consumer dispute to the data furnisher. The section amends the FCRA to clarify that “all relevant information” includes all documentation provided by the consumer. The section also requires that data furnishers review and consider documentation provided by consumers with their notice of a dispute.

#### *Section 3(b): Information on disputes*

This section directs the Consumer Financial Protection Bureau (CFPB) to draft a rule to require CRAs to gather and report information on filed disputes and their resolution to allow CRAs, the CFPB, and Congress to track progress in improving accuracy in credit reporting.

### *Section 3(c): Establishing procedures for assuring accuracy*

This section directs the CFPB to develop a rule establishing the minimum procedures that a CRA must follow to ensure maximum possible accuracy of all consumer reports furnished by the CRA. The section addresses the concern that CRAs have failed to interpret appropriately the requirement in the FCRA that they “follow reasonable procedures to assure maximum possible accuracy” of information contained in their reports.

The section also directs the CFPB to consider whether requiring matching of certain kinds of data, such as first and last name, date of birth, and/or all 9 digits of the consumer’s social security number, would improve the accuracy of consumer reports.

### *Section 3(d): Clarifying when disputes are frivolous*

This section clarifies a provision that states that a data furnisher does not need to reinvestigate a dispute that it determines to be frivolous or irrelevant. According to that provision, a dispute may be deemed frivolous if the consumer’s dispute is substantially the same as a dispute previously submitted by or for the consumer. However, some consumers have had to dispute an error several times before the CRA finally corrects the error. Therefore, the bill clarifies that a dispute is not frivolous for being substantially the same as a previous dispute if it includes new or additional information that is relevant to the reinvestigation. This will allow consumers to re-issue a dispute if they have new or additional information that is relevant to the reinvestigation.

### *Section 3(e): Disclosure of information to consumers*

This section makes three changes to the FCRA. First, it requires that when a CRA discloses information to a consumer about people who pull the consumer’s credit report, the CRA must include the name of the person (including the trade name), the address and telephone number, and the permissible purpose of pulling the credit report (*e.g.*, credit, employment, insurance underwriting, etc.). The FCRA currently only requires the CRA to disclose the name of the person (including the trade name) and, at the consumer’s request, the address and telephone number. It is important to provide consumers with not only the name of the person who pulled the report, but also the address, telephone number, and purpose so that consumers can determine why an entity has accessed their credit report.

Second, this section ensures that when a consumer asks for his or her credit score, the CRA discloses a score that is as relevant to the consumer as possible. Currently, the FCRA allows CRAs to provide an educational score that may not accurately reflect the score used by a lender.

Third, this section allows consumers to request a free credit score from a credit reporting agency along with their annual free credit report.

### *Section 3(f): Notifying consumers of negative information reported to CRAs*

The section also requires CRAs to automatically disclose to the consumer the information provided to the lender in the event of an adverse action or an offer of credit at less favorable

terms. This section directs the CFPB to define how this information should be disclosed to consumers to ensure that consumers have the information they need to identify and correct errors, while protecting the privacy of consumers' financial or personal information.

This replaces the current system where a consumer can request a free copy of his or her credit report within 60 days after an adverse action or offer of credit at less favorable terms. Currently, that report is generated using different matching criteria and at a different time than the report that the lender saw. Therefore, consumers do not see the same information that the lender used in taking an adverse action against the consumer or offering the consumer credit at less favorable terms.

This section also modifies a provision of the FCRA that requires data furnishers to provide notice to a consumer if the data furnisher reports negative information to a CRA. Under the current provision, after providing notice once, the data furnisher does not need to provide further notice if it submits additional negative information with respect to the same transaction, extension of credit, account, or customer. In the interest of making it easier for consumers to know about negative information on their credit report before they attempt to access credit or to identify potential errors, the section requires the data furnisher to provide notice of additional negative information with respect to the same customer, so long as it does not relate to the same transaction, extension of credit, or account that was previously notified to the consumer.

#### **Section 4: Regulatory Reform**

This section directs the CFPB to establish a registry of CRAs, organized by classification of CRA (e.g. nationwide CRA, specialty CRA, and other kinds of CRAs). This will better enable regulators and consumers to know which companies are collecting consumer information and are subject to the requirements of the FCRA.

#### **Section 5: Study of a Public Credit Reporting System**

This section directs the Government Accountability Office to conduct a study of public credit reporting systems, to evaluate the feasibility of creating a public credit reporting system in the United States, and to assess the consumer benefits and costs that might result from such a system. This study will help inform a discussion of whether the private credit reporting system that we currently have is adequately serving the needs of consumers and the U.S. credit system and whether there are viable alternatives.